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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No. 3-06-70636 EDL
	)	
Plaintiff,	)	<del>PROPOSED</del> ORDER AND STIPULATION
	)	(1) RECALLING AND REISSUING
v.	)	SUMMONS AND (2) EXCLUDING TIME
	)	FROM APRIL 10, 2007 TO MAY 16, 2007
MARVIN EARL WEBB,	)	FROM THE SPEEDY TRIAL ACT
	)	CALCULATION (18 U.S.C. § 3161(h)(8)(A))
Defendant.	)	

On October 3, 2006, based on a criminal complaint presented by Bureau of Alcohol, Tobacco, Firearms, and Explosives Special Agent Tommy Ho, the Hon. Elizabeth D. Laporte issued a summons for the Defendant to appear on November 7, 2006 at 9:30 a.m. The Defendant was served with the summons and complaint at his home in Tennessee on or about October 6, 2006. On November 7, 2006, after the parties filed a Joint Stipulation seeking to recall and reissue the summons and exclude time, the Honorable Judge Edward Chen ordered that the summons be recalled and reissued for February 2, 2007 and that the time from October 6, 2006 through February 2, 2007 shall be excluded from the Speedy Trial Act calculations. Thereafter, on February 1, 2007, upon filing of a Joint Stipulation seeking to recall and reissue the summons and exclude time, the Honorable Judge Maria Elena James ordered that the summons be recalled

1 and reissued for April 10, 2007 and that the time from February 2, 2007 through April 10, 2007  
2 shall be excluded from the Speedy Trial Act calculations.

3 Counsel for the Government and Defendant continue to discuss resolving this matter by  
4 plea agreement and a Rule 20 transfer to the Middle District of Tennessee to permit the  
5 Defendant, who suffers from health issues, to resolve the matter in that District. The Defendant's  
6 health problems significantly limit his ability to travel outside of the Tennessee area. Mr. Webb is  
7 recovering from back surgery performed three weeks ago and is scheduled for neck surgery on  
8 April 6, 2007 to repair four ruptured vertebrae. Due to these health complications, it will be  
9 extremely difficult for the Defendant to appear in San Francisco on April 10, 2007. The  
10 Defendant anticipates that he will be able to travel by May 16, 2007, the proposed date of for re-  
11 issuance of the summons and initial appearance. The parties hereby seek additional time to  
12 continue discussing a plea agreement and the best means to resolve this matter and effect the  
13 Rule 20 transfer. Further, counsel for the Defendant does not believe it is in his client's best  
14 interests for the government to indict the case within 30 days of the service of the summons, as  
15 required under 18 U.S.C. § 3161(b).

16 In addition, counsel for the Government will be out of the Office for Department of Justice  
17 training at the National Advocacy Center in Columbia, South Carolina from April 2-6 and April  
18 23 - May 3, 2007 and will be unavailable during this time to appear before this Court, present this  
19 matter to the Grand Jury of the Northern District of California, and facilitate a Rule 20 transfer  
20 should the discussions of counsel result in a plea agreement.

21 Accordingly, the parties have agreed as follows:

22 1. The summons for April 10, 2007 should be recalled, and a new summons should be  
23 reissued for May 16, 2007.

24 2. The defendant agrees to an exclusion of time under the Speedy Trial Act from April 10,  
25 2007 to May 16, 2007. Failure to grant the requested continuance would unreasonably deny both  
26 government and defense counsel reasonable time necessary for effective preparation and deny the  
27 Government continuity of counsel, taking into account the exercise of due diligence, the need for  
28 both sides to investigate the facts of the case, and the on-going attempts to reach a resolution of

the matter. See 18 U.S.C. § 3161(8)(B)(iv).

3. Given these circumstances, parties agree and the Court should find that the ends of justice served by excluding the period from April 10, 2007 to May 16, 2007 outweigh the best interest of the public and the defendant in a speedy trial. Id. at § 3161(h)(8)(A).

IT IS SO STIPULATED.

DATED: March 27, 2007

/s/  
DENISE MARIE BARTON  
Assistant United States Attorney

DATED: March 27, 2007

/s/  
HUGH MUNDY  
Attorney for MARVIN EARL WEBB

IT IS SO ORDERED.

The summons for the Defendant's appearance on April 10, 2007 is hereby RECALLED. A new summons requiring the Defendant to appear on May 16, 2007, 2007 shall issue. Pursuant to the parties' stipulation and for the reasons set forth above, the time from April 10, 2007 to May 16, 2007 shall be excluded from the Speedy Trial Act calculations.

DATED: March 28, 2007

THE HON. JUDGE  
United States District Court

